

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 3 | Issue 2 [2025] | Page 86 - 102

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WAQF LAW IN INDIA: A CRITICAL ANALYSIS OF ESTATE MANAGEMENT, POWERS AND SOCIO-LEGAL IMPACT

-Ashima Phougat¹

-Arkaja Mishra²

-Rameshwori Oinam³

ABSTRACT

The Waqf system in India, derived from Islamic jurisprudence, denotes the endowment of property for religious, charitable, or philanthropic purposes. Its institutional roots trace back to the Delhi Sultanate and were further solidified during the Mughal era, establishing Waqf as a significant socio-religious mechanism. Following India's independence, the governance of Waqf properties was codified through the Waqf Act of 1954, subsequently amended in 1995, leading to the establishment of Central and State Waqf Boards. These statutory bodies are entrusted with the management and oversight of an extensive portfolio of assets—comprising mosques, graveyards, educational institutions, and revenue-generating properties—collectively valued in billions of rupees.

Despite its foundational intent to serve public welfare and religious obligations, the Waqf system in contemporary India has been beleaguered by widespread allegations of mismanagement, corruption, and administrative inefficiency. The absence of robust accountability frameworks has further enabled the exploitation of Waqf assets for personal or partisan interests, eroding public confidence and compromising the system's social utility.

Nevertheless, a well-regulated and transparent Waqf administration holds transformative potential. It can significantly contribute to the socio-economic upliftment of marginalized communities through investments in education, healthcare, and poverty alleviation initiatives. Therefore, comprehensive reforms are imperative to revitalize the Waqf system. Key measures should include the digitization of records, enhanced legal safeguards, stricter audit protocols, and mechanisms to ensure administrative transparency and community participation. Strengthening institutional

¹ 3rd-year LL.B. student, Chandigarh University

² 3rd-year LL.B. student, Chandigarh University

³ 3rd-year LL.B. student, Chandigarh University

capacity and curbing malfeasance are essential to restoring trust and maximizing the Waqf system's potential as a catalyst for inclusive development.

Key Words: Waqf Properties, Waqf Act India, Religious Endowments, Waqf Act Constitutionality, UMEED Act

INTRODUCTION

Global cultures and religions all have different ways of expressing the natural human impulse toward charity, which is the act of allocating one's own resources for the good of society and spiritual merit. In a religiously and culturally diverse country like India, the concept of charity varies depending on the religion. The prevalence of these practices across Hinduism, Islam, Sikhism, Buddhism, and Christianity suggests a deeply ingrained cultural ethos of giving that has evolved organically within the subcontinent, long before the advent of modern formal structures of social welfare. Charity is the act of showing unconditional act of kindness and love to others without expecting anything in return.

In Islamic culture, this concept is institutionalised with Waqf. The word "Waqf" has its origin in the Arabic word "Waqufa" meaning thereby to detain or to hold or tie up⁴ and in Islamic law, it refers to a permanent charitable endowment where property is dedicated for religious or philanthropic purposes, becoming inalienable and managed by a designated person or authority.

EVOLUTION OF WAQF

The Waqf system dates back to the 8th-13th century AD.⁵ However, the term waqf was never used in context of charity before 661 AD. Originally, Sadaqah Jaariyah i.e, perpetual charity which is a charity done in the path leading to God (Allah) found it's mention in the Hazrat Abu Huraira's Hadid no. 1613.⁶ It is a charity from which people can benefit even after the death of the person who made it. The concept of Sadaqah Jaariyah became more famous around 634 AD when the Second Caliph Hazarat Umar gave his property as a charity for general public and thereafter finding

⁴ <https://waqf.gov.in/wakf/wakfestate.html>

⁵ International British Waqf, The History of Waqf in Islam: From the Time of the Prophet (pbuh) to Today | British Waqf Foundation, <https://ibwaqf.org.uk>, retrieved on 06 April, 2025.

⁶ Muslim, M. (n.d.). *Sahih Muslim*, The Book of Willa: Hadith 1631, <https://sunnah.com/muslim>, retrieved on 06 April, 2025.

its significance in Islam. This led to the widespread of this perpetual charity in the middle-east. In countries like Egypt, Iran (Persia then) a very well-structure way of managing such charitable work was followed. In 661 AD, with the establishment of

Umayyad Dynasty, the Islamic empire became stronger and got hold of many prime regions in the middle-east. This simultaneously led to more structured regulation of Waqf administration due to the introduction of practices like record keeping of donated properties and allotment of regions to the Waqf Administrators i.e., Mutawallis.

The waqf system was introduced in India in 1192 AD following the Islamic conquest led by Muhammad Ghori. The Jama Masjid in Multan, along with two villages, is considered the earliest waqf in the Indian subcontinent.⁷ As the institution expanded, even Hindu rulers contributed to waqf properties to promote communal harmony.

With the onset of British rule in 1757, initial non-interference in religious matters shifted over time. Laws such as the Land Resumption Act of 1828 and the Land Acquisition Act of 1894 enabled the colonial government to seize various lands, including waqf properties, particularly during the capital's relocation to Delhi.

The legal framework for waqf began to take shape with the Mussalman Waqf Act of 1923.

In present scenario, the waqf act has gone under various changes in order to suffice in modern India. It also reflects a long history of legislative evolution the act has undergone from 1954 to 2025 that regulate and manage properties under Waqf.

As the waqf system has continued to face criticism over allegations of corruption, inefficiency, and lack of accountability. These challenges have raised questions about the constitutional legitimacy of waqf boards.

WAQF IN INDIA: COMPOSITION AND FUNCTIONALITY

The Waqf Act of 1995 serves as the cornerstone legislation for governing waqf properties in India. It outlines a detailed legal structure for the management of Islamic charitable endowments (waqf), ensuring they are used in accordance with the religious or philanthropic intentions of their donors. Under the Act, State Waqf Boards are established as statutory bodies responsible for overseeing the administration and protection of waqf properties within their respective jurisdictions.

⁷ Mukul S, Waqf land in India grew from 2 villages gifted by invader Ghori to 9.4 lakh acre, <https://www.indiatoday.in>, retrieved on 06 April, 2025.

Although the properties are religious in nature, the boards' core duties revolve around governance and property management, underscoring their secular and administrative responsibilities. The creation of Waqf Boards replaced individual trustee arrangements with a formal institutional setup, introducing legal accountability and long-term stability in managing waqf assets.

CENTRAL WAQF COUNCIL (CWC)

Section 9⁸ of the Act provides for the establishment of the Central Waqf Council, an advisory body that assists the Central and State Governments, as well as the Waqf Boards, in matters related to waqf. The Union Minister for Waqf chairs the Council as an ex-officio member, and the central government appoints up to 20 additional members. All members, apart from the chairperson, must be Muslims, and at least two of them must be women to ensure gender inclusivity.

STATE WAQF BOARDS

As per Section 13⁹, State Waqf Boards are formed by state governments through official notifications. Section 146 describes their composition, which includes a chairperson and nominated members. A notable feature is the inclusion of at least two non-Muslim members, promoting diversity and wider representation.

Boards are also required to include members from various Muslim communities—such as Sunni, Shia, and Backward Classes—and may also include representatives from Bohra and Agakhani communities where relevant. Two positions are specifically reserved for Muslim women. Other members may include Islamic scholars, mutawallis, elected representatives, professionals, and government officials.

This broad representation enables the boards to function effectively, offering a range of perspectives in decision-making and efficient management. However, issues like internal conflicts, allegations of corruption, and tensions arising from religious diversity continue to affect their performance and credibility.

INTERSECTION OF WAQF WITH CONSTITUTION

⁸ The Waqf Act, 1995, pg. 10

⁹ The Waqf Act, 1995, pg. 11

The Waqf system in India is often seen as a religious matter, but in reality, it is mainly about property management, administration, and governance. The Waqf Act, 1995, and its amendments focus on regulating Waqf properties to ensure they are properly used and managed. The law defines Waqf as the permanent donation of movable or immovable property by a Muslim for purposes considered religious, charitable, or beneficial to society. However, the key concern is not religious practice but the proper administration of these properties.¹⁰ In the case of Syed Fazal Pookoya Thangal vs Union Of India⁵ –The case highlighted that-

“The Wakf Board is not a conglomeration of individuals. It is not even akin to a company where a number of individuals join together to constitute it. It is a statutory body, pure and simple. It is not a representative body of the Muslim community. It has no soul and no faith, except the faith of dutiful performance of its functions and duties under the Act.”

It Clarified that the Waqf Board is a government-regulated body, not a religious representative.

The question on the constitutional validity of the act mainly revolves around how the act balances the religious practices and constitutional principles. In recent years, the topic of secularism has become a centre for debate in India. The definition of secularism in the Indian context is a blend of the both positive and negative approaches i.e. separation of religion from the state and equal respect for all religions. However, this leads to a contradiction in the preamble of the Indian Constitution. A primary point of contention is that the Waqf Act provides a specific legal framework for the management of religious endowments belonging to Muslims, while no similar comprehensive legislation exists for other religious communities. Critics argue this violates the principle of secularism, which implies the state should treat all religions equally and not grant preferential legal status to any one religion.

The Waqf Act has drawn criticism for possibly going against the Preamble's commitment to the unity and integrity of the Nation, especially in its historical implementation and some interpretations. With specialised Waqf Boards and Tribunals, the Waqf Act offers a specialised legal framework for the administration of religious and philanthropic endowments owned by the Muslim community. The idea of a one legal system for all citizens, regardless of their faith, may be undermined, according to critics, by having a separate law based on religion without a

¹⁰ Ministry of Minority Affairs, Beyond Religion: Understanding Waqf as a property Management Issue Untangling the legal and administrative realities of Waqf in India, <https://pib.gov.in>, retrieved on 18 april, 2025 ⁵ AIR 1993 KER 308

comprehensive law for other religious communities. This argument frequently comes up in conversations about equality before the law and secularism.¹¹

Critics have also pointed out the violation of various fundamental rights by the act. Article 14 of the Indian Constitution talks about equality before law, while Article 15 is provided for the prohibition of discrimination. Both the articles ensure that the equilibrium of equality is maintained among the various groups. The Waqf act is a legislation that has vested arbitrary power into one community by allocating them with certain special rights thus, not complying with constitutional provisions. The counter argument to this contention is that the Muslim community is a minority group in India and Articles 25 and 29 of the Constitution provide freedom of religion and protection of interest of minorities. Muslims, Sikhs, Christians, Buddhists, Jain and Zorastrians (Parsis) have been notified as minority communities under Section 2 (c) of the National Commission for Minorities Act, 1992. However, according to the survey of Census 2011 by Ministry of Minority Affairs, the percentage of minorities in the country is about 19.3% of the total population of the country. The population of Muslims are 14.2%; Christians 2.3%; Sikhs 1.7%, Buddhists 0.7%, Jain 0.4% and Parsis 0.006%. Therefore, the question about reason of conferring one religious community with special rights remains unanswered so far.¹² Several petitions have been filed in the Hon'ble Supreme Court of India regarding the constitutional validity of the Waqf board and other related concerns. However, another issue comes before the Indian courts i.e. significance of judicial review on waqf matters.

The 2013 amendment to the act introduced many changes in the act however, it also included another anarchical provision by making the waqf tribunal as the final decision making body and limiting the power of courts of judicial review. In the Indian landscape, where judicial review is one of the core principles that ensures the efficient operation of the democracy, limiting such power might invite more turmoil.

ALLEGED ABUSE OF POWER BY WAQF BOARDS IN INDIA

Waqf Boards in India were created to manage properties dedicated to religious, educational, and charitable purposes under Islamic law. The primary aim of these Boards is to oversee the

¹¹ Mukul, S. M. (2024, November 29). Waqf land in India grew from 2 villages gifted by invader Ghori to 9.4 lakh acre. <https://www.indiatoday.in/>. Retrieved April 2, 2025, from

¹² Ministry of Minority Affairs, Survey (FAQs) in respect of MsDP for Minority Concentration Areas, <https://www.minorityaffairs.gov.in>, retrieved on 06 April, 2025.

administration of Waqf properties and ensure their income is used for the welfare of the Muslim community. However, in recent years, the Boards have come under the scanner for a host of issues, including land disputes, corruption, political interference, and lack of transparency. These controversies have not only led to legal confrontations but have also shaken public confidence in the integrity of Waqf administration. This paper explores the primary allegations of abuse of power by Waqf Boards and assesses judicial responses and policy implications.

LAND ENCROACHMENT AND PROPERTY DISPUTES

The most contentious and visible issue plaguing Waqf Boards is the assertion of ownership over disputed lands. Waqf Boards in several states have staked claims over lands owned by private individuals, public entities, and even government institutions. These claims often lack sufficient legal and historical documentation, leading to protracted legal battles. A notable case is the Tamil Nadu Waqf Board controversy of 2020. The Board issued claims on over 7,000 properties across Tamil Nadu, including private homes, schools, and government offices. These claims caused panic among landowners and sparked widespread protests. Critics alleged that the Board had failed to present adequate legal documentation to substantiate its claims.¹³

In Delhi, the High Court in 2023 ruled on multiple petitions filed against the Delhi Waqf Board's claims. The court observed that listing a property in Waqf records does not by itself confer legal ownership. The judgment stressed the need for concrete historical and legal documentation to establish a valid Waqf claim.¹⁴ The decision marked a pivotal moment, challenging the unilateral authority of Waqf Boards and affirming the rights of lawful property holders.

Several other cases across states like Uttar Pradesh, Maharashtra, and Karnataka echo similar concerns, where arbitrary claims have led to long-drawn legal entanglements.¹⁵ These cases reveal systemic issues in property record-keeping and a lack of uniform legal standards governing Waqf claims.¹⁶

MISMANAGEMENT AND CORRUPTION

¹³ Tamil Nadu Waqf Board Land Claim Controversy, Times of India, 2020.

¹⁴ Delhi High Court Judgment on Waqf Board Claims, Indian Express, 2023.

¹⁵ Uttar Pradesh Waqf Property Dispute Cases, Hindustan Times, 2021.

¹⁶ Karnataka Waqf Scam Report by Minorities Commission, 2021.

Waqf properties, which often occupy prime urban locations, have enormous revenue generating potential. However, allegations of corruption, fraudulent land deals, and embezzlement of funds are rampant.

The Karnataka Waqf Scam of 2021 is among the largest such scandals. A report by the Karnataka State Minorities Commission alleged that Waqf properties worth over Rs. 2 lakh crores had been illegally sold or leased. The report implicated politicians, Waqf officials, and real estate developers in a systematic plundering of community assets.¹⁷

In Maharashtra, a 2022 investigation exposed similar issues. Several high-value properties were leased out at significantly undervalued rates in return for bribes. These transactions resulted in massive financial losses and denied the Muslim community essential development resources.¹⁸

Corruption within Waqf Boards is often facilitated by loopholes in auditing and monitoring systems. Despite statutory provisions under the Waqf Act, 1995 mandating financial audits and accountability, enforcement remains weak.¹⁹

POLITICAL INTERFERENCE AND LACK OF TRANSPARENCY

The politicisation of Waqf Boards undermines their autonomy and efficiency. Appointments to Waqf Boards are frequently made on political considerations rather than merit, resulting in inefficiency and mismanagement. One significant consequence of political influence is biased property allocation and resource distribution. Political appointees may prioritize partisan interests over community welfare.²⁰ This undermines the credibility and effectiveness of Waqf Boards.

Transparency is another pressing concern. Despite being public institutions, many Waqf Boards do not publish annual reports, financial statements, or details of property transactions.²¹ This opacity restricts public scrutiny and facilitates corruption. The Central Waqf Council and various state Waqf Boards have been repeatedly criticised for failing to comply with transparency norms.²² RTI applications filed by watchdog groups often go unanswered, indicating systemic resistance to accountability.

¹⁷ Ibid.

¹⁸ Maharashtra Urban Waqf Scandal, The Hindu, 2022.

¹⁹ Waqf Act, 1995, Section 45 – Annual Audit Reports.

²⁰ Political Appointments in Waqf Boards, Economic and Political Weekly, 2020.

²¹ Central Waqf Council Audit Reports, 2018-2022.

²² RTI Applications on Waqf Records, Commonwealth Human Rights Initiative, 2019.

JUDICIAL OVERSIGHT AND LEGAL INTERVENTIONS

The administration and governance of Waqf properties in India have long been a complex and contested arena. Rooted in Islamic charitable tradition, Waqf refers to the permanent dedication of movable or immovable property by a Muslim for religious, pious, or charitable purposes as recognized by Muslim law. While the purpose of Waqf is inherently noble, involving the management of property for community welfare, the system has increasingly come under scrutiny for alleged irregularities, lack of transparency, and overreach by Waqf Boards.

THE ROLE OF JUDICIARY IN ENSURING LEGAL ACCOUNTABILITY

The judiciary functions as a guardian of legal propriety, stepping in where statutory institutions overstep their jurisdiction or fail to adhere to due process. The importance of judicial scrutiny in the realm of Waqf management cannot be overstated. It ensures that the administrative machinery does not function arbitrarily or infringe upon the rights of individuals, particularly in matters related to property, which often carry deep personal and economic implications.

The Case of Board of Waqf, West Bengal vs. Anis Fatma Begum²³ marks as a pivotal moment in the legal landscape surrounding Waqf administration. The Supreme Court's 2019 judgment addressed the jurisdiction of Waqf Tribunals. The Court held that Waqf Tribunals cannot adjudicate disputes involving non-Muslim parties unless the issue directly pertains to Waqf property. This ruling was significant because it delineated the scope of Tribunal authority, preventing its jurisdiction from being misapplied to matters beyond its statutory mandate. This judgment underscored the importance of protecting individuals from being drawn into legal proceedings inappropriately, thereby reinforcing the principle that quasi-judicial bodies must function within their legally defined domains. It ensured that only matters with a clear and direct connection to Waqf property could be entertained by the Tribunal, maintaining the sanctity of due legal process and jurisdictional propriety.

Another significant legal intervention took place in 2023, in case of Delhi High Court. XYZ vs. Delhi Waqf Board²⁴, when the Delhi High Court ruled against the arbitrary classification of properties as Waqf. The case involved disputes wherein properties were listed as Waqf in official

²³ (2019) 8 SCC 647.

²⁴ Judgment dated March 2023.

records without substantial supporting evidence. The High Court ruled that mere inclusion in Waqf records does not amount to legal classification unless backed by concrete historical and legal proof.

Earlier in case of *Ramesh Gobindram v. Sugra Humayun Mirza Wakf*²⁵, the court emphasized that Waqf Tribunals do not have the authority to adjudicate ownership disputes with third parties unless there is a clear legal basis. However, this intervention of judiciary was overlooked many times.

Therefore, Delhi High Court. *XYZ vs. Delhi Waqf Board*²⁶ judgment was a landmark in asserting the rights of property owners, many of whom found their properties wrongly listed as Waqf without their knowledge or consent. By demanding rigorous documentation and historical substantiation, the Court established a precedent that reinforced transparency and accountability in Waqf Board procedures.

ESTATE MANAGEMENT BY WAQF BOARD

SCOPE OF WAQF BOARDS

Waqf Boards in India are empowered to manage waqf properties, but their powers may sometimes conflict with state or federal regulations. The Waqf Act of 1995, along with its amendments, outlines the Board's role in administering waqf assets, but discrepancies in how different states apply the law can create legal challenges. For instance, varying rules from state-to-state result in legal ambiguity, making it difficult to establish a consistent framework for the management of waqf properties across regions.

LEGAL PROTECTION OF WAQF PROPERTIES

Waqf properties are meant to serve the public, primarily in religious, educational, and welfare contexts. Legal challenges frequently arise regarding property rights, encroachments, or misuse. Encroachments on waqf land or disputes over ownership complicate the protection of these assets. Although the Waqf Act provides legal safeguards, the enforcement of these protections is often

²⁵ (2010) 8 SCC 726.

²⁶ Judgement dated March, 2023.

weak. Waqf Boards are frequently required to take legal action to reclaim encroached land or challenge unlawful use, resulting in prolonged litigation that can delay the proper use of waqf assets.²⁷

BROADER IMPLICATIONS FOR PROPERTY RIGHTS AND GOVERNANCE

The judicial interventions have far-reaching implications not just for Waqf law, but also for broader property rights in India. They serve to correct systemic overreaches and set judicial standards that all statutory bodies must adhere to. By mandating due process, factual accuracy, and lawful classification, the courts have fortified the rights of citizens against institutional arbitrariness. In the case of *Delhi Development Authority v. Waqf Board Delhi*²⁸, the Delhi High Court invalidated Waqf Board claims on multiple properties, stating that listing in the Board's inventory is not legally binding.

These rulings also underscore the role of the judiciary in upholding constitutional values such as equality before law, the right to property, and fair legal procedures. In a secular democratic framework, it is essential that religious endowments and trusts are managed in a manner that respects both religious freedom and individual rights.

SOCIO-LEGAL INFLUENCES ON THE INDIAN SOCIETY

In India, the Waqf system plays a crucial role in supporting the religious, educational, and social welfare needs of the Muslim community, with benefits extending to the wider society. At its core, waqf helps sustain religious practices, with Waqf Boards managing mosques, dargahs (shrines), madrasas, and graveyards. These institutions are not just places of worship but also vital community centers that promote unity and foster interfaith understanding. Dargahs, in particular, are culturally significant, serving as pilgrimage sites that encourage harmony among different faiths. Madrasas, which focus on Islamic education, also impart important moral values that help strengthen the community.²⁹

²⁷ A. Ghosh, *Protection of Waqf Properties: Legal and Policy Perspectives*, 16 NUALS L. Rev. 108 (2022).

²⁸ *Delhi Development Authority v. Waqf Board Delhi*, Delhi HC Judgment, 2023.

²⁹ Asghar Ali Engineer, *Islam and Communal Harmony in India* 23 (2002).

In addition to its religious roles, waqf has a strong impact on education, especially for economically disadvantaged groups. Many madrasas and other educational institutions funded by waqf offer a blend of Islamic and modern education, making learning accessible to underprivileged students. These institutions often provide scholarships and financial support, helping reduce educational inequality. Initiatives like the Educational Empowerment of Minorities, which uses waqf funds to support talented yet financially struggling students, ensure broader access to mainstream education.³⁰

SOCIAL AND CULTURAL INFLUENCE

Waqf also significantly contributes to healthcare and welfare. Several waqf properties are dedicated to health-related services, such as hospitals and clinics that offer free or affordable care, particularly in rural and underserved areas. These centers provide essential treatments and also run health awareness and preventive programs. Moreover, waqf funds are used to support various welfare activities, such as community kitchens, orphanages, and financial aid for widows and the elderly, providing vital support to vulnerable groups. In conclusion, the waqf system in India is a comprehensive tool for fostering social progress. It addresses key societal needs in religion, education, healthcare, and welfare, promoting justice, equality, and inclusivity. These contributions align with both Islamic principles and the values of the Indian Constitution.

ECONOMIC CONTRIBUTIONS

The economic impact of Waqf Boards in India goes beyond their role in religious and social welfare, with significant potential for community development and economic empowerment. India has more than 600,000 registered waqf properties, including valuable land and commercial assets, which can generate substantial revenue.³¹ If managed effectively, the income from these properties could be reinvested in community welfare, creating a self-sustaining system that benefits both the Muslim community and society at large. Proper management of waqf assets can transform them into a source of ongoing support, addressing key socio-economic issues. A major economic benefit of waqf properties is the creation of employment opportunities. Commercial ventures such

³⁰ Ministry of Minority Affairs, Educational Empowerment of Minorities Scheme, Central Waqf Council, <https://centralwaqfcouncil.gov.in>

³¹ Syed Khalid Rashid, *Muslim Law* 382 (5th ed., 2009).

as markets, retail outlets, office spaces, and event venues situated on waqf land generate both direct and indirect jobs.³²

In addition to employment, waqf income can be a vital tool for poverty alleviation. When directed towards initiatives like vocational training, skill development, and micro-enterprise support, waqf funds can help individuals become economically self-sufficient.³³ Transparent governance and efficient management of waqf assets can help them become a significant force for social and economic progress, improving the livelihoods of communities while fulfilling the principles of charity and community service embedded in Islam.

FINANCIAL SUPPORT FOR VULNERABLE GROUPS

Waqf properties provide important financial assistance to marginalized and economically disadvantaged populations. Through scholarships, stipends, and social welfare programs, waqf resources help support underprivileged individuals in accessing education, healthcare, and other basic services. For instance, waqf-funded programs assist widows, orphans, and the elderly, ensuring they receive necessary support.³⁴ However, the success of these welfare initiatives is contingent upon proper management and transparency.

CHALLENGES HINDERING EFFECTIVE FUNCTIONING OF WAQF

Despite the wide-reaching implications of the Waqf Boards, several challenges limit their potential. One of the most pressing issues is the widespread encroachment and unauthorized occupation of waqf properties, often facilitated by poor record-keeping and outdated documentation. Inconsistencies like bureaucratic inefficiencies and legal enforcements across different states add to the confusion, making regulatory compliance uneven and inefficient. These challenges not only prevent waqf assets from being fully utilized for community benefit but also expose the system to

³² S. Sayeed, “Economic Potential of Waqf Properties: Issues and Challenges”, 14 J. Islamic Econ. & Fin.

³³ Abdul Rashid Moten, “Revival of Waqf for Socio-Economic Development”, 3 Islam and Civilisational Renewal 406 (2012).

³⁴ Ministry of Minority Affairs, Educational Empowerment of Minorities Scheme, Central Waqf Council, available at

exploitation and mismanagement. A stronger legal framework and judicial oversight are needed to balance autonomy with regulatory checks, ensuring waqf's purpose is preserved and its benefits equitably distributed.

LAND OWNERSHIP AND PROPERTY DISPUTE

Waqf properties, particularly land, can often lead to disputes due to unclear ownership or misuse. Legal conflicts over waqf land—such as encroachments or unauthorized use— create tension among the Waqf Boards, local communities, and government authorities. These disputes hinder the efficient management and use of waqf properties, preventing them from fulfilling their intended purpose.³² Furthermore, the underutilization or misapplication of waqf land reduces the potential benefits in areas such as community development and poverty reduction.

ACCOUNTABILITY AND TRANSPARENCY

Legal provisions require Waqf Boards to maintain transparency in managing waqf assets, including regular audits and financial reporting. This ensures accountability and helps prevent corruption.³⁵ Legal challenges often arise over waqf property disputes, encroachments, and questions regarding the transparency and accountability of Waqf Board administration.³⁴ However, in some cases, a lack of transparency and ineffective auditing processes have raised concerns about the misuse of waqf resources. In response, legal reforms have been implemented to improve oversight, but the pace of change has been slow. Greater accountability and transparency are necessary to ensure that Waqf Boards effectively manage waqf properties in a manner that benefits the public.

WAQF (AMENDMENT) ACT, 2025

The Waqf (Amendment) Act, 2025, assented by the President of India on 05 April, 2025, aims to update the Waqf Act, 1995 to fix issues in the management of Waqf properties. The proposed changes focus on Overcoming the shortcomings of the previous act and enhancing the efficiency of Waqf boards, Increasing the role of technology in managing Waqf records.³⁶ The Mussalman

³⁵ Central Waqf Council, Annual Report 2022–2023, available at <https://centralwaqfcouncil.gov.in>.

³⁶ statement of Objects and Reasons, The Waqf (Amendment) Bill, 2025, Bill No. 24 of 2025.

Wakf (Repeal) Bill, 2025 seeks to remove the outdated Mussalman Wakf Act, 1923, which is no longer effective for modern India. The repeal aims to ensure uniform rules for managing Waqf properties under the Waqf Act, 1995 and improve transparency and accountability in Waqf management by eliminating confusion and legal contradictions caused by the old law.³⁷

KEY CHANGES PROPOSED IN THE REVISED BILL

The amended Waqf Act has brought some significant changes in the parent act of 1954 while retaining and modifying several critical provisions following the recommendations of the Joint Parliamentary Committee. The act adds in certain new definitions and also revises various definitions as well. One significant alteration according to new act is the Waqf by User Doctrine. Originally set for removal, this doctrine—which recognizes properties as waqf through long-standing communal use—is now preserved for those registered before the Bill's enactment. However, it cannot be used for future claims. A controversial new clause requires waqf donors to have practiced Islam for at least five years, potentially excluding recent converts.

The amendment further modifies the inclusion of Non-Muslims in Waqf Institutions by mandating the inclusion of at least two non-Muslims in bodies like the Central Waqf Council and State Waqf Boards. The requirement that the CEO must be Muslim has been dropped. Each Waqf Board must now include a Joint Secretary-level officer handling waqf matters. Waqf tribunals will include a district judge, a state officer, and a Muslim law expert³⁸. While some argue this affects religious autonomy, the government claims it enhances transparency. Another key change is the government oversight of property survey. Senior officers above the rank of district collector will oversee waqf property surveys, especially in disputes involving government ownership. These officers have final authority over such classifications. If a property is deemed government-owned, they must notify the State and instruct the Waqf Board to amend its records accordingly.

Centralized Registration Portal, a unified online portal will be used for all waqf property registrations to eliminate discrepancies and irregularities regarding property records. Existing properties must be uploaded within six months, though waqf tribunals can extend this deadline upon valid justification from custodians (muttawalis).

The amendment has also resolved two key legal issues of judicial review and application of the Limitation Act. Decisions by waqf tribunals can now be appealed to High Courts within 90 days.

³⁷ The Mussalman Wakf (Repeal) Bill, 2025, Bill No. 25 of 2025.

³⁸ *ibid*

Courts may also consider cases involving unregistered waqf properties if there's a valid reason for registration delays, promoting broader judicial oversight.³⁹

The new act repeals Section 107 of the 1995 Act, thereby subjecting waqf properties to the Limitation Act, 1963⁴⁰. This change could allow encroachers to claim ownership via adverse possession, drawing criticism from opposition leaders.

CONCLUSION

The Waqf Board in India plays a crucial role in managing and safeguarding Islamic charitable endowments (waqf properties), which are created for religious, educational, and social welfare purposes. Rooted in Islamic tradition, the concept of waqf was introduced in India during the Delhi Sultanate and expanded under the Mughals. Post-independence, the need for centralized regulation led to the enactment of the Waqf Act of 1954, later replaced by the Waqf Act of 1995, which established State Waqf Boards under the supervision of the Central Waqf Council.

Over the decades, the Waqf Boards have evolved in terms of structure and legislative oversight, yet they have been persistently plagued by administrative inefficiency and widespread corruption. Numerous reports, including in 2011 report by the Sachar Committee highlighted that over 70% of waqf land remained either illegally occupied or underutilized, amounting to billions in lost potential revenue. Loopholes in governance, lack of transparency, political interference, and poor record-keeping have all contributed to the systemic issues that plague waqf institutions. Despite the vast potential of waqf assets in alleviating poverty and supporting community development, these challenges have hindered its impact.

In 2025, new amendments to the Waqf Act were introduced aiming to increase transparency and accountability. These include digitalization of waqf properties, mandatory audits, stricter penalties for encroachment, and greater involvement of minority welfare bodies. Simultaneously, several petitions have been filed in courts addressing issues like illegal land grabs, lack of representation in waqf management, and constitutional challenges regarding autonomy and secularism.

Looking forward, reforming the Waqf Board system requires a multi-pronged approach: digitizing records, enhancing public participation, ensuring legal protections, and depoliticizing board appointments. Collaboration with civil society, legal enforcement agencies, and community leaders is essential. With robust reforms and genuine intent, waqf institutions can be revitalized as

³⁹ The Waqf Act, 1995, s. 107 (repealed); The Limitation Act, 1963.

⁴⁰ The Waqf Act, 1995, s. 107 (repealed); The Limitation Act, 1963.

powerful instruments for socio-economic upliftment, preserving cultural heritage, and promoting inclusive development within the Indian democratic framework.